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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MASUFUMI SHIMODAIRA, HIROYUKI ODA,
YASUHIKO KOBAYASHI, and AKIRA ONIKUBO

Appeal 2008-2757
Application 10/783,107
Technology Center 1700

Decided: June 30, 2008

Before ROMULO H. DELMENDO, MICHAEL P. COLAIANNI, and
JEFFREY B. ROBERTSON, *Administrative Patent Judges*.

ROBERTSON, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) (2002) from the
Examiner's rejection of claims 1-16. (Examiner's Answer entered, Apr. 19,

2007, hereinafter “Ans.,” 4-7). We have jurisdiction pursuant to 35 U.S.C. § 6(b) (2002).

We AFFIRM-IN-PART.

THE INVENTION

Appellants’ claimed invention is directed to a press felt for papermaking, where the felt comprises a batt, a base body, and an anti-rewetting layer. (Spec. [0008]). The press felt has a surface that contacts a wet paper web and a surface that contacts a roll. (Spec. [0008]). The base body and anti-rewetting layer are disposed within the batt. (Fig. 2). The anti-rewetting layer comprises a non-oriented film having openings, where the openings have a three-dimensional structure. (Spec. [0008]). The openings may be tapered, where the three-dimensional structure of the openings protrude from the film toward the roll-contacting surface. (Spec. [0034]). The aperture of the opening closest to the wet paper web side is larger than the aperture of the opening closest to the roll side end of the press felt. (Spec. [0034]). The non-oriented film may also comprise flat openings in addition to the openings having three-dimensional structure. (Spec. [0011]). The non-oriented film may be made of nylon that has an elongation at the break of at least 300%. (Spec. [0010]). Appellants state that the present invention improves water-removing capability of press felts. (Spec. [0001]).

Claims 1, 3, 9, 11, and 13, reproduced below, are representative of the subject matter on appeal.

1. A press felt for papermaking, having a wet paper web contacting surface and a roll contacting surface, said felt comprising a batt, a base body, and an anti-rewetting layer, the

base body and the anti-rewetting layer both being disposed within the batt and spaced from the wet paper web contacting surface, and the anti-rewetting layer comprising a non-oriented film having openings, said openings having a three-dimensional structure, each opening having a wet paper web side end and a roll side end, each of said ends having an aperture, and the aperture of the wet paper web side end of each said opening being larger than the aperture of the roll side end thereof.

3. A press felt for papermaking as claimed in claim 1 wherein said non-oriented film is composed of nylon, and has an elongation at break of at least 300%.

9. A press felt for papermaking, having a wet paper web contacting surface and a roll contacting surface, said felt comprising a batt, a base body, and an anti-rewetting layer, the base body and the anti-rewetting layer both being disposed within the batt, and the anti-rewetting layer comprising a non-oriented film having a first side substantially parallel to, and facing toward, the wet paper web contacting surface, and having a second side, substantially parallel to, and facing toward, the roll contacting surface, the film having openings, each opening being in the form of a tapered, three-dimensional, structure protruding from the second side of the film toward the roll contacting surface, each opening having a wet paper web side end and a roll side end, each of said ends having an aperture, and the aperture of the wet paper web side end of each said opening being larger than the aperture of the roll side end thereof.

11. A press felt for papermaking as claimed in claim 9 wherein said non-oriented film is composed of nylon, and has an elongation at break of at least 300%.

13. A press felt for papermaking as claimed in claim 9, in which said film further has flat openings in addition to said openings having a three-dimensional structure.

THE REJECTIONS

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Eklund	4,446,187	May 1, 1984
Gulya	5,071,697	Dec. 10, 1991
Schiel	6,159,880	Dec. 12, 2000
Watanabe	US 2003/0051848 A1	Mar. 20, 2003 (Sep. 9, 2002)
Beck	WO 03/029558 A1	Apr. 10, 2003 (Sep. 27, 2001)

There are five grounds of rejection to be reviewed in this appeal¹: (i) claims 1, 2, and 5-8 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Watanabe; (ii) claims 3 and 4 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Watanabe; (iii) claims 9 and 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Schiel in view of Beck; (iv) claims 11 and 12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Schiel in view of Beck, and further in view of Gulya; and (v) claims 13-16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Schiel in view of Beck, and further in view of Eklund. (Ans. 4-7).

PROCEDURAL HISTORY

Regarding rejection (ii), the rejection of claims 3 and 4 under 35 U.S.C. § 102(e) as being anticipated by Watanabe, this ground of rejection was presented as a new ground of rejection in the Examiner's Answer.

¹ The Examiner withdrew the rejection of claims 1-2, 5-8 under 35 U.S.C. § 103 (a) as being unpatentable over Eklund in view of Beck as well as the rejection of claims 3 and 4 as being unpatentable over Eklund in view of Beck, and further in view of Gulya. (Ans. 3 and 4.) Therefore, we do not address Appellants' arguments regarding these rejections.

(Ans. 4 and 7). This new rejection was applied because of a typographical error in the Final Office Action incorrectly listing claims 2 and 3 in the statement of rejection. (Final Office Action mailed Apr. 10, 2006, 3). In accordance with 37 C.F.R. § 41.39 (b)², the Examiner required Appellants to either request that prosecution be reopened or request that the appeal be maintained by filing a reply brief. (Ans. 11 and 12). Appellants did neither one, which under normal circumstances would result in dismissal of the appeal with respect to claims 3 and 4. (*See* FN 2). However, since both the

² 37 C.F.R. § 41.39 (b) states:

(b) If an examiner's answer contains a rejection designated as a new ground of rejection, appellant must within two months from the date of the examiner's answer exercise one of the following two options to avoid sua sponte dismissal of the appeal as to the claims subject to the new ground of rejection:

(1) Reopen prosecution. Request that prosecution be reopened before the primary examiner by filing a reply under § 1.111 of this title with or without amendment or submission of affidavits (§§ 1.130, 1.131 or 1.132 of this title) or other evidence. Any amendment or submission of affidavits or other evidence must be relevant to the new ground of rejection. A request that complies with this paragraph will be entered and the application or the patent under ex parte reexamination will be reconsidered by the examiner under the provisions of § 1.112 of this title. Any request that prosecution be reopened under this paragraph will be treated as a request to withdraw the appeal.

(2) Maintain appeal. Request that the appeal be maintained by filing a reply brief as set forth in § 41.41. Such a reply brief must address each new ground of rejection as set forth in § 41.37(c)(1)(vii) and should follow the other requirements of a brief as set forth in § 41.37(c). A reply brief may not be accompanied by any amendment, affidavit (§§ 1.130, 1.131 or 1.132 of this title) or other evidence. If a reply brief filed pursuant to this section is accompanied by any amendment, affidavit or other evidence, it shall be treated as a request that prosecution be reopened before the primary examiner under paragraph (b)(1) of this section.

Final Rejection and the Answer refer to claim 3, rejection (ii) is not a new ground of rejection with respect to that claim. In addition, Appellants presented a separate argument with respect to claim 3 in the Brief. (App. Br. 13). Further, the Examiner indicated that even though the incorrect claim numbers were used, because the rejection clearly referred to the limitations of the claims, the Examiner believed that Appellants understood which claims were being rejected. (Ans. 7). Thus, the limitations of claims 3 and 4, which are identical except for the dependencies of the claims, have been treated substantively by both the Examiner and Appellants. Accordingly, rather than dismissing the appeal, we will treat claims 3 and 4 on the merits, where the arguments made for claim 3 will apply to claim 4 as well.

ANTICIPATION UNDER § 102(e)

The Examiner rejected claims 1, 2, and 5-8 under 35 U.S.C. § 102(e) as being anticipated by Watanabe. The Examiner found that Watanabe discloses a press felt comprising a base layer, batt layers, and a rewetting prevention layer as claimed. (Ans. 5). The Examiner found that Watanabe generally teaches films for the rewetting prevention layer, where biaxially oriented films are suitable as the film layer. (Ans. 5). The Examiner found that Watanabe generically teaches the use of films, and that due to Watanabe's disclosure of biaxially oriented films, "Watanabe implicitly teaches that using unoriented films is less preferred, but known." (Ans. 5). Regarding claims 3 and 4, the Examiner also found that because Watanabe discloses the same structure and same materials, the film would inherently have the claimed elongation at the break. (Ans. 7).

Appellants contend that there is no express or inherent disclosure of an unoriented film in Watanabe. (Amended Appeal Brief filed Dec. 22, 2006, hereinafter “App. Br.,” 10). Appellants argue that the Examples disclosed in Watanabe describe alternatives to a biaxially oriented film, none of which are unoriented films. (App. Br. 10). Appellants additionally contend that while the Examiner assumes that the only alternative to biaxial orientation is non-orientation, another alternative is uniaxial orientation. (App. Br. 11). Appellants argue that the Examiner has failed to establish that the unoriented film as claimed necessarily flows from the teachings in Watanabe. (App. Br. 12). With respect to claims 3 and 4, Appellants argue that because Watanabe does not disclose the same unoriented film as claimed, the elongation at the break is not at least 300% as required by the claim. (App. Br. 13).

The § 102(e) Issue

We frame the § 102(e) issue as follows: Have Appellants shown that the Examiner erred in finding that Watanabe discloses non-oriented films?

We answer this question in the affirmative.

Findings of Fact Relating to Anticipation

The record supports the following findings of fact (FF) by a preponderance of the evidence.

1. Watanabe does not disclose the use of non-oriented films either as part of the invention or in describing the prior art.
2. Watanabe states:

A biaxially oriented film is suitable for use as a rewetting prevention layer 40. Films exhibiting low water absorption, such as polyethylene, polypropylene, polyvinylidene and polyester, and also water-absorbing films such as nylon and polyurethane, may be used as a film material. ([0035])

3. Watanabe states:

When a biaxially oriented film is used for this re-wetting prevention layer 40, the re-wetting prevention layer 40 and the opening rim 42 around the wet paper web side opening 42a may be prevented from being split largely by the impact of punching and thus the passage 44 may be prevented from being united each other which will result in the film rupture. ([0049]).

4. Because Watanabe is silent as to non-oriented films, Watanabe does not exhibit any preferences for non-oriented films.

Discussion of the § 102(e) Issue

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628, 631 (Fed. Cir. 1987), *cert. denied*, 484 U.S. 827 (1987).

The principal disagreement between Appellants and the Examiner is whether Watanabe’s disclosure of “film” for the rewetting layer includes a non-oriented film under 35 U.S.C. § 102(e). We agree with Appellants, that Watanabe does not teach a non-oriented film. The Examiner contends that there are only three orientation possibilities with respect to a film, unoriented, uniaxially oriented, or biaxially oriented. (Ans. 8). The Examiner argues that by teaching that biaxially oriented films are preferred and not required, Watanabe discloses other films besides biaxially oriented films. (Ans. 8). The Examiner then contends that because there are only

three types of films, a person of ordinary skill in the art would immediately know that all three types of films were disclosed, even though none of the examples teaches a non-oriented film. (Ans. 8 and 9). Therefore, the Examiner takes the position that Watanabe implicitly discloses non-oriented films or that “film” is a genus, of which non-oriented, uniaxially oriented, and biaxially oriented are species. (Ans. 8 and 9).

In determining what a reference implicitly discloses, “it is proper to take into account not only specific teachings of the reference but also the inferences which one skilled in the art would reasonably be expected to draw therefrom.” *In re Preda*, 401 F.2d 825, 826 (CCPA 1968). In *Preda*, the reference itself recognized the possibility that the claimed process could be performed at temperatures falling within the claimed range. *Id.* This recognition was sufficient to anticipate the claims. *Id.* In contrast, Watanabe does not disclose the use of non-oriented films either as part of the invention or in describing the prior art. (FF 1). Indeed, as argued by Appellants, it appears that the Examiner’s position is more consistent with a rejection under 35 U.S.C. § 103 than 35 U.S.C. § 102.³ (App. Br. 8). See *In re Lamberti*, 545 F.2d 747, 750, (CCPA 1976). Therefore, we agree with Appellants, that Watanabe does not implicitly disclose non-oriented films.

When the prior art discloses a genus, a species of that genus may be anticipated when the species is part of a well delineated or limited class. See *In re Petering*, 301 F.2d 676, 681-82 (CCPA 1962); *In re Schaumann*, 572 F.2d 312 (CCPA 1978). “In order to find anticipation in Petering, it was necessary to derive a class of compounds of lesser scope than the genus

³ Watanabe has been disqualified as prior art under 35 U.S.C. § 103(c). (Advisory Action dated July 28, 2006).

actually disclosed in the reference *on the basis of preferences ascertainable from the remainder of the disclosure*, which included eight specific examples.” *Schaumann*, 572 F.2d at 316 (emphasis added). In *Schaumann*, the court found anticipation based upon the preferences set forth in the claims in conjunction with expressions disclosed in the specification of the prior art reference. *Id.* at 316-317. In both *Petering* and *Schaumann*, the prior art disclosed a generic chemical formula with a number of variables. *Petering*, 301 F.2d at 678; *Schaumann*, 572 F.2d at 313. The prior art also expressly disclosed the individual species necessary for each variable of the formula to anticipate the claimed compounds. *Petering*, 301 F.2d at 680-681; *Schaumann*, 572 F.2d at 316-317. In both cases, the Court found that the preferences expressed for each of the variables in the general formula created a smaller class of compounds, some of which anticipated the claimed compounds. *Petering*, 301 F.2d at 681-682; *Schaumann*, 572 F.2d at 316-317.

In the instant case, it is the Examiner who has defined the genus and the limited class deriving there from, not Watanabe. Watanabe’s use of the language “[a] biaxially oriented film is suitable for use” and “[w]hen a biaxially oriented film is used for this re-wetting prevention layer,” without more, does not give rise to the genus and limited class defined by the Examiner. (FF 2 and 3). Although the Court in *Petering* and *Schaumann* defined the limited class arising from the generic teachings, the limited class in those cases were based on specific preferences, including all the members of the limited class, *which were disclosed in the prior art*. See *Petering*, 301 F.2d at 681-682; *Schaumann*, 572 F.2d at 315-317. In contrast, because Watanabe is silent as to non-oriented films, Watanabe does not exhibit any

preferences for non-oriented films. (FF 4). Thus, the Examiner defines a genus and species that is unappreciated by the prior art. Therefore, we agree with Appellants that Watanabe fails to disclose a non-oriented film as a rewetting layer and does not anticipate the present claims.

Regarding claims 3 and 4, Appellants argue that Watanabe does not disclose the claimed elongation at break, because Watanabe does not disclose the same material. We agree with Appellants' argument for the same reasons as discussed above for claim 1.

OBVIOUSNESS UNDER § 103(a)

The Examiner rejected claims 9 and 10 under 35 U.S.C. § 103(a) as being unpatentable over Schiel in view of Beck. The Examiner found that Schiel discloses a press felt comprising a batt layer, a support layer, and an intermediate layer, which may be a film layer. (Ans. 5). The Examiner stated that because Schiel does not explicitly disclose that the intermediate film layer is oriented, it is reasonable to presume the film is unoriented. (Ans. 5 and 6). In addition, the Examiner found that Schiel discloses that the layers were needled together, which would necessarily perforate the film to cause openings having the three-dimensional structure as claimed. (Ans. 6). Thus, the Examiner found that Schiel teaches all of the limitations of claim 9, except that Schiel does not specifically refer to the intermediate layer as an anti-wetting layer. (Ans. 6). The Examiner cites Beck for teaching incorporation of an anti-rewetting layer within a press felt to prevent re-wetting and concludes that it would have been obvious to incorporate an anti-rewetting layer as the intermediate layer in Schiel in order to prevent re-wetting. (Ans. 6).

The Examiner rejected claims 11 and 12 under 35 U.S.C. § 103(a) as being unpatentable over Schiel in view of Beck, and further in view of Gulya. The Examiner found that Schiel in view of Beck failed to teach that the rewetting prevention layer could be made of nylon. The Examiner found that Gulya teaches the use of nylon for rewetting layers. (Ans. 6). The Examiner concluded that it would have been obvious to employ the nylons of Gulya as the rewetting prevention layer in light of the recognition in the art that nylon films were used for this purpose. (Ans. 6). The Examiner also concluded that the claimed elongation at the break would either be inherent to the nylon used or else it would have been obvious to select nylon having the desired strength. (Ans. 6 and 7).

The Examiner rejected claims 13-16 under 35 U.S.C. § 103(a) as being unpatentable over Schiel in view of Beck, and further in view of Eklund. The Examiner found that Schiel in view of Beck failed to teach including both flat apertures and protuberances in the rewetting prevention layer. (Ans. 7). The Examiner found that Eklund teaches that the openings can have any configuration and concluded that the shape and depth of the openings would have been determined by one of ordinary skill in the art based on routine experimentation to produce a press felt having optimum rewetting prevention characteristics. (Ans. 7).

Appellants argue that Schiel fails to describe a film with openings having a tapered, three dimensional protruding structure as claimed. (App. Br. 17). Appellants additionally argue that the intermediate layer in Schiel is not a film, but a fibrous structure. (App. Br. 17 and 18). Appellants also argue that no funnel-shaped openings with a tubular portion are described or suggested in Schiel. (App. Br. 19).

Appellants contend that Eklund does not describe the combination of flat openings and openings having a three dimensional structure. (App. Br. 15, 16, and 20). Appellants argue that Eklund contains no disclosure of protruding walls, which Appellants indicate are part of the three dimensional structure of the openings as defined in the Specification. (App. Br. 16).

The § 103(a) Issue

We frame the § 103(a) issue as follows: Have Appellants shown that the Examiner erred in rejecting the appealed claims as being obvious to one of ordinary skill in the art over the cited prior art of record?

We answer this question in the negative.

Findings of Fact Relating to Obviousness

The record supports the following findings of fact (FF) by a preponderance of the evidence.

5. Schiel states:

FIG. 4 shows a different felt construction containing an intermediary layer 12 between base layer 1 and top bat layer 2. This intermediary layer 12 can be made of fibers or of foil. (Col. 6, ll. 24-27).

6. Schiel states:

A precompactd intermediary layer can be provided between the base and top bat layer. This intermediary layer may be formed of a material of inferior strength. The higher strength fibers needled through it provide good bonding strength to the base. In the same manner, a foil or membrane can be needled into the felt sandwich.

An originally watertight foil can be rendered pervious by the needling stitches. The carrier layer or base can also be formed

of a perforated foil which, for example, contains cavities with openings to the bottom side. (Col. 3, ll. 3-12).

7. Eklund states:

By the use of the laser device it is possible to produce holes or channels 2 of virtually any desired shape or configuration. This is true as regards the longitudinal configuration of the holes or channels as well as their transverse extension. FIGS. 5 to 8 illustrate a number of different hole configurations, and it is obvious that it is possible according to the present invention to combine according to wish any illustrated hole configurations both in one and the same hole and in different parts of the foil 1. (Col. 6, ll. 32-41).

8. Eklund states:

Preferably, the reinforcement structure is located on one side of the foil and is connected to the foil at least in the areas of the channel mouths. The foil preferably is formed with pores in the material intermediate the channels. Preferably, the reinforcement structure consists of a fabric of mono- and/or multifilament threads. The fabric may be provided with a fibre layer on at least one side. The fibres are preferably needled to the fabric. (Col. 3, ll. 24-32).

9. Appellants Specification states:

The anti-rewetting layer 40 is originally in the form of a thin film having no openings. This film is adhered, by needle punching, to the other components of the felt 10, in which staple fibers form the batt layers. ([0033]).

The anti-rewetting layer 40 is perforated in the needle punching process, and the openings formed by the needles have walls 42, which protrudes toward one side of the layer 40. In the case of FIG. 3, the wall 42 protrudes downward. Thus, the opening 44 has a three dimensional structure, comprising a wall 42, a wet paper web side end 42a, and the roll side end 42b. The wall 42 is tapered, so that the opening is funnel-shaped, with its wet

paper web side end 42a being wider than its press roll side end 42b. ([0034]).

Discussion of the § 103(a) Issue

“Section 103 forbids issuance of a patent when ‘the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains.’” *KSR Int’l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1734 (2007).

Appellants have grouped certain claims subject to each of the three grounds of rejection separately. However, Appellants rely on the same arguments for each group of claims. Accordingly, we confine our discussion to appealed claims 9 and 13, which contain claim limitations representative of the arguments made by Appellants, and address other claims only to the extent that Appellants have argued them separately pursuant to 37 C.F.R. § 41.37(c)(1)(vii) (2006).⁴

Regarding claim 9, Appellants’ argument that Schiel fails to teach a film as the intermediate layer is not persuasive. Appellants do not appear to dispute the Examiner’s determination that the term “foil” employed by Schiel and the term “film” are used interchangeably in the art. (Ans. 10). Instead, Appellants argue that the brief description of Figure 4 in Schiel stating that the felt has “an intermediary layer of bat” requires that all

⁴ Only those arguments actually made by Appellants have been considered in this decision. Arguments which Appellant could have made but chose not to make have not been considered and are deemed to be waived. See 37 C.F.R. § 41.37 (c)(1) (vii) (2004).

intermediary layers have a fibrous structure. (App. Br. 18). We agree with the Examiner that Appellants' interpretation that Schiel's intermediate layer must be made of fibers is not supported by the plain language of Schiel. (Ans. 10). Schiel clearly discloses that the intermediary layer may be made of fibers *or* of foil. (FF 5). Further, we agree with the Examiner that Schiel's disclosure of a watertight foil refers to a film and not a fibrous structure. (See FF 6).

Appellants' argument that Schiel either alone or in combination with Beck fails to teach the tapered, protruding three dimensional openings that may be funnel-shaped and possess a tubular portion as claimed is not persuasive. Specifically, we agree with the Examiner that the openings in Schiel and the openings in the claimed invention are both formed through needling, such that the openings produced in Schiel would have the same shape as the presently claimed openings. (FF 6 and 9, Ans. 9 and 10). Appellants do not address this finding by the Examiner. Accordingly, the intermediary films of Schiel contain the opening structures as claimed.

Regarding claim 13, Appellants' argument that Schiel in view of Beck and Eklund fails to teach the combination of three-dimensional and flat openings required by the claims is not persuasive. Appellants' principal argument appears to be that Eklund fails to teach openings having protruding walls, where in the present invention, the openings of three dimensional structure having walls that protrude contribute to anti-wetting performance (App. Br. 15, 16, 20). However, Appellants have presented no evidence that such anti-wetting performance would have been unexpected to rebut the Examiner's finding that it would have been obvious in view of Eklund to select the sizes and shapes of the openings through the process of routine

experimentation to produce a material having a desired permeability. (Ans. 11). In addition, when the films according to Eklund are incorporated into the press felts as disclosed in Schiel, the film would have both flat and three dimensional openings as a result of needling the intermediary layer into the press felt in accordance with the methods disclosed in Schiel and Eklund. (*See* FF 6-8). Therefore, Appellants' arguments are not persuasive.

CONCLUSION

In light of the above discussion, Appellants have demonstrated that the Examiner erred in rejecting claims 1, 2, and 5-8 under 35 U.S.C. § 102(e) as being anticipated by Watanabe and claims 3 and 4 under 35 U.S.C. § 102(e) as being anticipated by Watanabe.

Appellants have failed to demonstrate that the Examiner erred in rejecting claims 9 and 10 under 35 U.S.C. § 103(a) as being unpatentable over Schiel in view of Beck, claims 11 and 12 under 35 U.S.C. § 103(a) as being unpatentable over Schiel in view of Beck, and further in view of Gulya, and claims 13-16 under 35 U.S.C. § 103(a) as being unpatentable over Schiel in view of Beck, and further in view of Eklund.

ORDER

The Examiner's decision rejecting claims 1-8 is reversed. The Examiner's decision rejecting claims 9-16 is affirmed

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Application 10/783,107

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. §1.136(a)(1)(iv).

AFFIRMED-IN- PART

tf/lis

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